

ST 00-0117-GIL 06/30/2000 EXEMPT ORGANIZATIONS

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, charitable, or a governmental body receive an exemption identification number ("E" number). See 86 Ill. Adm. Code 130.2007. (This is a GIL).

June 30, 2000

Dear Xxxxx:

This letter is in response to your letter to PERSON of May 29, 2000. PERSON has forwarded your letter to the Department of Revenue for response. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Are you familiar with the Thrift Store at CITY, IL? They sell clothing and small household items all donated from people in the COUTNY area. The churches from the county also volunteer to sort and sell these items each Friday and Saturday. The profit from these sales is used to help people in the county with medicine, utilities, rent and sometimes a monetary donation after a fire, health or disability problem. Our biggest donation each year is scholarships to a college or tradeschool of a high school graduate's choice. This spring, three students each got a five hundred dollar scholarship.

The concern of the Thrift Store workers and directors is the amount of money the store pays the State of Illinois. for sales tax. Every bit of income is given back to the community to help the needy. My question to you is; 'How can we reduce this expense for the store so we have more money for the community?' Can the Thrift Store be made non-profit and therefore be tax exempt. We think this is what the store should be, because all workers and directors are volunteers and are not paid.

We'd like your help or a reply with some suggestions as to how we can make this possible. Thank you for taking the time to read our letter.

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, charitable, or a governmental body receive an exemption identification number ("E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an

organization does not have an E number, then its purchases are subject to tax. Organizations that are recognized as non-profit under Internal Revenue Code Section 501(c)(3), are not necessarily exempt organizations pursuant to Illinois tax law. Such organizations must obtain an Illinois E number to qualify. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

These organizations are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4).

An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. In regard to sales to members, please note that the population to which sales are made is limited to persons specifically associated with that exempt organization and must be for the primary purpose of the selling organization. If such sales are made to the public at large the selling activity is subject to the Retailers' Occupation Tax. See section 130.2005(a)(2) through (a)(4). Whether the sales are for the primary purpose of the selling organization depends upon the nature of the tangible personal property sold and how that tangible personal property is used. For example, if a religious organization sells literature or other items of tangible personal property that would place them in competition with religious bookstores, the sales generally would not be primarily for the purpose of the selling organization. However, sales of choir robes or like tangible personal property to their members would generally be primarily for the purpose of the selling organization. We urge these organizations not to be cavalier in determining the nature of their sales.

Occasional dinners, socials or other similar activities that are conducted by an exempt organization are not taxable, whether or not such activities are open to the public. Section 130.2005(a)(4)(A), enclosed, states that this exemption extends to occasional dinners, carnivals, bazaars and the like. For purposes of this exemption, "occasional" means not more than twice in any calendar year. Further, the regulations provide that where more than two events are held in any calendar year, the organization or institution may select which two events held within that year will be considered exempt. Once the organization or institution has made the selections, the selections cannot be changed. All other events in that year will be considered taxable. Please see the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(4)(B).

Further, if organizations engage in ongoing selling activities, such as Little League concession stands, sales of items in a thrift shop run by a church, or more than two sales a year, the organization must also register with the Department as retailers, file returns and remit tax. Such organizations must provide their suppliers with Certificates of Resale when making purchases for resale. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b), copy enclosed. A valid Certificate of Resale must contain the following:

1. A short statement from the purchaser that the items are being purchased for resale;
2. The seller's name and address;

3. The purchaser's name and address;
4. The purchaser's signature and date of signing;
5. A sufficient identification or description of the items purchased for resale; and
6. One of the following:

The purchaser's registration number with the Illinois Department of Revenue,

The purchaser's resale number issued by the Illinois Department of Revenue, or

A statement that the purchaser is an out-of-state purchaser who will sell only to purchasers located outside the State of Illinois

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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